

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: VIRGINIA

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Enforcement of Compliance for Nursing Facilities

Termination of Provider Agreement. Describe the criteria (as required at §1919(h)(2)(A)) for applying the remedy.

XXX Specified remedy
(Will use the criteria and notice requirements specified in the regulation.)

§1. Mandatory termination. As set forth by 42 CFR §488.408 (1995), the Commonwealth shall:

- A. Impose temporary management on the nursing facility;
- B. Terminate the nursing facility's provider agreement; or
- C. Impose both of these remedies

when there are one or more deficiencies that constitute immediate jeopardy to resident health or safety. In addition, the Commonwealth shall terminate the nursing facility's provider agreement when the NF fails to relinquish control to the temporary manager, or in situations when a facility's deficiencies do not pose immediate jeopardy, if the NF does not meet the eligibility criteria for continuation of payment set forth in 42 CFR 488.412(a) (1995).

§2. The Commonwealth shall have the authority to terminate a NF's provider agreement if such NF:

- A. Is not in substantial compliance with the requirements of participation, regardless of whether or not immediate jeopardy is present; or
- B. Fails to submit an acceptable plan of correction within the timeframe specified by the Commonwealth. For purposes of this regulation, substantial compliance shall be defined as meaning a level of compliance with the requirements of participation such that any identified deficiencies pose no greater risk to resident health or safety than the potential for causing minimal harm.

§3. Situations without immediate jeopardy. If a NF's deficiencies do not pose immediate jeopardy to residents' health or safety, and the facility is not in substantial compliance, the Commonwealth shall have the authority to terminate the NF's provider agreement or allow the

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NF to continue to participate for no longer than six months from the last day of the survey agency's survey if:

- A. The survey agency finds that it is more appropriate to impose alternative remedies than to terminate the NF's provider agreement;
- B. The Commonwealth has submitted a plan and timetable for corrective action approved by HCFA; and
- C. The facility in the case of a Medicare skilled nursing facility or Commonwealth in the case of a Medicaid NF agrees to repay to the federal government payments received after the last day of the survey that first identified the deficiencies if corrective action is not taken in accordance with the approved plan of correction.

§4. Effect of termination. Termination of the provider agreement shall end payment to the NF.

§5. Patient transfer. The Commonwealth shall provide for the safe and orderly transfer of residents when the facility's provider agreement is terminated.

§6. Continuation of payments to a facility with deficiencies. As set forth by 42 CFR §488.450:

- A. The Commonwealth shall have the authority to terminate the NF's provider agreement before the end of the correction period if the following criteria are not met: (1) the survey agency finds that it is more appropriate to impose alternative remedies than to terminate the NF's provider agreement; (2) the Commonwealth has submitted a plan and timetable for corrective action which has been approved by HCFA; and (3) the Commonwealth has agreed to repay the Federal government payments received under this provision if corrective action is not taken in accordance with the approved plan and timetable for corrective action.
- B. Cessation of payments. If termination is not sought, either by itself or with another remedy or remedies, or any of the criteria of Part A of this section are not met or agreed to by either the facility or the Commonwealth, the facility or the Commonwealth shall receive no Federal Medicaid payments, as applicable, from the last day of the survey.

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Page 3 of 3

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- C. Period of continued payments. If the criteria of Part A of this section are met, HCFA may continue payments to the Commonwealth for a Medicaid facility with non-compliance that does not constitute immediate jeopardy for up to six months from the last day of the survey. If the facility does not achieve substantial compliance by the end of this six-month period, the Commonwealth shall have the authority to terminate its provider agreement.

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